

EXHIBIT A

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW JERSEY
3 CIVIL ACTION NO. 3:15-cv-02932-BRM-TJB

4 JOEL MARTINEZ,

5 Plaintiff,

6 vs.

7 COLONEL JOSEPH R. FUENTES, SUPERINTENDENT;
8 LT. COLONEL PATRICK CALLAHAN, DEPUTY
9 SUPERINTENDENT OF OPERATIONS; MAJOR KEVIN
10 DUNN, DEPUTY BRANCH COMMANDER, FIELD
11 OPERATIONS SECTION; JOHN DOE 1, TROOP C
12 COMMANDER; JOHN DOE 2, SUPERVISOR; TROOPER I
13 JOSE G. RIVERA (#6010); ACTING MAJOR MARK
14 WONDRAK, OFFICE OF PROFESSIONAL STANDARDS;
15 CAPTAIN SCOTT EBNER, BUREAU CHIEF, INTAKE
16 AND ADJUDICATION BUREAU, OFFICE OF
17 ADJUDICATION BUREAU, OFFICE OF PROFESSIONAL
18 STANDARDS, and DSG ISMAEL E. VARGAS,
19 Defendants.

20 -----
21 THURSDAY, APRIL 19, 2018
22 -----

23 Oral sworn deposition of BENJAMIN C. ATLEE,
24 taken at the Lawrenceville Prep School, 2500 Main
25 Street, Hogate Hall, Lawrenceville, New Jersey,
before Carolyn J. McCalla, Certified Court Reporter,
on the above date, commencing at 11:07 a.m., there
being present:

26 -----
27 TATE & TATE
28 Certified Court Reporters
29 520 Stokes Road - Suite C-1
30 Medford, New Jersey 08055
31 (856) 983-8484 - (800) 636-8283

USDC, District of NJ
No. 3:15-cv-02932-BRM-TJB

Martinez v. Fuentes, et al.
Deposition of Benjamin C. Atlee

Thursday
April 19, 2018

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES CONTINUED:</p> <p>2</p> <p>3 LOUGHRY & LINDSAY, LLC</p> <p>4 330 Market Street</p> <p>5 Camden, New Jersey 18102</p> <p>6 BY: JUSTIN T. LOUGHRY, ESQUIRE</p> <p>7 Attorneys for Plaintiff</p> <p>8</p> <p>9 ATTORNEY GENERAL OF NEW JERSEY</p> <p>10 25 Market Street, PO Box 116</p> <p>11 Trenton, New Jersey 08648</p> <p>12 BY: KAI MARSHALL-OTTO, ESQUIRE</p> <p>13 Attorneys for Defendants Colonel</p> <p>14 Joseph Fuentes, et al.</p> <p>15</p> <p>16 WINDELS, MARX, LANE & MITTENDORF, LLP</p> <p>17 120 Albany Street Plaza</p> <p>18 New Brunswick, New Jersey 08901</p> <p>19 BY: WILLIAM C. CAGNEY, ESQUIRE</p> <p>20 Attorneys for the witness</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 4</p> <p>1 BENJAMIN C. ATLEE, having been first duly</p> <p>2 sworn, testified as follows:</p> <p>3 EXAMINATION BY MR. MARSHALL-OTTO:</p> <p>4 Q. Mr. Atlee, my name is Kai Marshall-Otto. I</p> <p>5 am a Deputy Attorney General with the Office of the</p> <p>6 Attorney General. I represent defendant Trooper</p> <p>7 Jose Rivera with respect to a civil lawsuit brought</p> <p>8 against him by one Joel Martinez.</p> <p>9 This is the matter captioned Martinez V</p> <p>10 Fuentes, et al., proceeding in the United States</p> <p>11 District Court for the District of New Jersey.</p> <p>12 We're here today at the Lawrenceville</p> <p>13 School in Lawrenceville, New Jersey to depose you,</p> <p>14 Mr. Champ Atlee.</p> <p>15 Mr. Atlee, do you understand that you are</p> <p>16 under oath?</p> <p>17 A. I do.</p> <p>18 Q. Have you had your deposition taken before?</p> <p>19 A. No.</p> <p>20 Q. I'm going to go over some rules that we're</p> <p>21 going to try and adhere to over the course of this</p> <p>22 deposition. I'm going to ask you a series of</p> <p>23 questions today regarding the events underlying this</p> <p>24 lawsuit that took place in April of 2013, the 26th</p> <p>25 of April 2013.</p>
<p style="text-align: right;">Page 3</p> <p>1 INDEX</p> <p>2</p> <p>3 WITNESS EXAMINING ATTORNEY PAGE</p> <p>4 BENJAMIN C. ATLEE</p> <p>5 Examination By Mr. Marshall-Otto 4</p> <p>6 Examination By Mr. Loughry 19</p> <p>7 Examination By Mr. Marshall-Otto 35</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12 EXHIBITS</p> <p>13 NUMBER DESCRIPTION MARKED</p> <p>14 FOR ID</p> <p>15 No exhibits were marked</p> <p>16 -----</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 Please make sure you answer each question</p> <p>2 to the best of your recollection. However, if you</p> <p>3 don't remember an answer to a question, you can</p> <p>4 simply state that you don't remember. I will try to</p> <p>5 avoid asking you questions that require you to</p> <p>6 speculate or guess. That being said, if I do and</p> <p>7 you feel comfortable, you may respond unless, of</p> <p>8 course, your attorney offers an objection and</p> <p>9 instructs you not to answer.</p> <p>10 Please make sure you speak all of your</p> <p>11 answers because the court reporter can't record a</p> <p>12 nod of your head or a shake, so verbal answers.</p> <p>13 Please wait for me to finish speaking</p> <p>14 before you start answering. That makes the court</p> <p>15 reporter's job a little bit easier and ensures an</p> <p>16 accurate record of this deposition and I will try</p> <p>17 and extend you the same courtesy.</p> <p>18 Are you currently on any medications or</p> <p>19 drugs or anything that might prevent you from</p> <p>20 answering questions truthfully and to the best of</p> <p>21 your ability today?</p> <p>22 A. No, I'm not.</p> <p>23 Q. And any other physical or mental ailment</p> <p>24 you are suffering from that might impact your</p> <p>25 memory?</p>

2 (Pages 2 to 5)

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<p style="text-align: right;">Page 6</p> <p>1 A. No.</p> <p>2 Q. Did you review any materials or documents</p> <p>3 or have any conversations in preparation for your</p> <p>4 deposition today other than with your attorney?</p> <p>5 A. No.</p> <p>6 Q. I'm just going to go into a very brief bit</p> <p>7 of background.</p> <p>8 For the record, what is your full name?</p> <p>9 A. For the record, my full name is Benjamin</p> <p>10 Champneys Atlee.</p> <p>11 Q. And is it correct that you are commonly</p> <p>12 called Champ Atlee?</p> <p>13 A. Yes, just as the dominion of my second</p> <p>14 name.</p> <p>15 Q. And your date of birth please?</p> <p>16 A. [REDACTED]</p> <p>17 Q. And where do you presently reside?</p> <p>18 A. [REDACTED] in Lawrenceville.</p> <p>19 Q. Is that on the campus or off?</p> <p>20 A. No, it's not, no. I moved off campus in</p> <p>21 2006.</p> <p>22 Q. In 2006. Prior to that you lived on</p> <p>23 campus?</p> <p>24 A. Yes. Actually I lived quite near the</p> <p>25 baseball field.</p>	<p style="text-align: right;">Page 8</p> <p>1 that correct?</p> <p>2 A. For about an hour.</p> <p>3 Q. That's a lot more than most people can say.</p> <p>4 MR. CAGNEY: I can say that too.</p> <p>5 Q. And are you currently employed by the</p> <p>6 Lawrenceville School?</p> <p>7 A. I am.</p> <p>8 Q. How long have you been an employee here?</p> <p>9 A. Since the fall of 1969.</p> <p>10 Q. That's impressive.</p> <p>11 Subsequent to getting your Master's degree,</p> <p>12 is this the only place where you have held</p> <p>13 employment?</p> <p>14 A. I worked for two years at Peddie in</p> <p>15 Hightstown in 1967 and 1968.</p> <p>16 Q. In what position -- or strike that.</p> <p>17 What positions have you held while employed</p> <p>18 at the Lawrenceville School to the extent that you</p> <p>19 can name them?</p> <p>20 A. Let's see. So --</p> <p>21 Q. We can start with the most recent and,</p> <p>22 sorry to interrupt. We can start with the most</p> <p>23 recent and when it starts to fade you can just tell</p> <p>24 me.</p> <p>25 A. Probably easier to go the other way.</p>
<p style="text-align: right;">Page 7</p> <p>1 Q. Oh, did you. How long had you lived there</p> <p>2 before you moved off campus?</p> <p>3 A. A decade anyway.</p> <p>4 Q. So, just for clarity of the record, in</p> <p>5 April of 2013, you were living off campus, correct?</p> <p>6 A. I was living off campus.</p> <p>7 Q. In Lawrenceville Township?</p> <p>8 A. Yes.</p> <p>9 Q. Can you tell me a little bit about your</p> <p>10 educational background?</p> <p>11 A. Yes. So I graduated from Lawrenceville</p> <p>12 School and attended Claremont, then Claremont Men's</p> <p>13 College for two years. I dropped out of college to</p> <p>14 sign a baseball contract with the Minnesota Twins. I</p> <p>15 was out of school for a year and then I finished at</p> <p>16 Franklin & Marshall College in Lancaster,</p> <p>17 Pennsylvania. I did graduate work at both Florida</p> <p>18 State and at Penn State Millersville.</p> <p>19 Q. And so do you hold a graduate degree?</p> <p>20 A. Yes. I hold a Master's degree from Penn</p> <p>21 State Millersville.</p> <p>22 Q. And you hold an undergraduate degree from</p> <p>23 Franklin & Marshall?</p> <p>24 A. Correct.</p> <p>25 Q. So, you played professional baseball; is</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. Okay.</p> <p>2 A. So, I was appointed as the house master of</p> <p>3 the Woodhull House. So I was pointed as the house</p> <p>4 master at Woodhull House and an instructor in the</p> <p>5 English department. I ultimately became the</p> <p>6 director of day students at Lawrenceville. I was</p> <p>7 also the chairman of the English department for I</p> <p>8 believe six years. In 19, relative to this event,</p> <p>9 in 1977 I became the varsity baseball coach and I</p> <p>10 continued in that role until the spring of 2015.</p> <p>11 Q. Are you involved in the baseball practice</p> <p>12 in any respect at this point?</p> <p>13 A. Well, I'm formally retired, but I was asked</p> <p>14 by the athletic director to at least converse with a</p> <p>15 new coach to just make him comfortable with the way</p> <p>16 the Lawrenceville does business I suppose.</p> <p>17 Q. But as of today, are you receiving</p> <p>18 paychecks from the Lawrenceville School?</p> <p>19 A. I'm certainly receiving paychecks from the</p> <p>20 Lawrenceville School. I'm not receiving paychecks</p> <p>21 as the varsity baseball coach.</p> <p>22 Q. And what is your capacity now then?</p> <p>23 A. So, at this point I'm an instructor in the</p> <p>24 English department. I guess I should add that I'm</p> <p>25 an academic adviser to five seniors as well.</p>

3 (Pages 6 to 9)

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<p>1 Q. Just for clarity of the record, you were</p> <p>2 the varsity baseball coach in April of 2013; is that</p> <p>3 correct?</p> <p>4 A. Yes, I was, yes.</p> <p>5 Q. So, now I'm going to get into a little bit</p> <p>6 more meat as to the events underlying this lawsuit.</p> <p>7 Were you present on the grounds of the</p> <p>8 Lawrenceville School on April 26th of 2013?</p> <p>9 A. Yes, I was.</p> <p>10 Q. Was there a baseball practice that day?</p> <p>11 A. Yes. I was conducting a baseball practice,</p> <p>12 and this occurred right at the beginning of baseball</p> <p>13 practice.</p> <p>14 Q. That was a varsity baseball team practice?</p> <p>15 A. Right.</p> <p>16 Q. About what time did that practice take</p> <p>17 place?</p> <p>18 A. It would have been, well, the practice</p> <p>19 would have begun at 3:30. Players are asked to be</p> <p>20 on the field to stretch and to throw. The actual</p> <p>21 event would have occurred just about at a quarter of</p> <p>22 four because I just asked the players to come in.</p> <p>23 Q. But the players arrive at about 3:30?</p> <p>24 A. About 3:30.</p> <p>25 Q. And at some point during the course or</p>	<p>1 A. Well, yeah, he spoke to me and then he was</p> <p>2 off to my left as I began to talk to the players.</p> <p>3 Q. And do you recall whether this was by the</p> <p>4 first base or the third base dugout?</p> <p>5 A. Well, all this, all this occurred nearby</p> <p>6 the third base dugout. First of all, it would be</p> <p>7 the home dugout. The players normally stretched and</p> <p>8 threw along the left field line to stay away from</p> <p>9 the infield. So it was natural that we would use</p> <p>10 the third base dugout.</p> <p>11 Q. And do you recall when Trooper Rivera came</p> <p>12 by and was -- was he presumably engaging you in</p> <p>13 conversation?</p> <p>14 A. My recollection is that we spoke briefly.</p> <p>15 Q. And do you recall what about?</p> <p>16 A. Again, my best recollection would be that</p> <p>17 he was trying to find out what the time of our next</p> <p>18 game might be so that he could figure out whether or</p> <p>19 not he could attend. If he wasn't on duty then he</p> <p>20 was usually in uniform and he was instructing the</p> <p>21 outfielders. So I'm guessing that he stopped by to</p> <p>22 find out about the next game because that's, if he</p> <p>23 was on duty, that's the sort of conversation we</p> <p>24 would have.</p> <p>25 Q. So, as I understand it, what you are saying</p>
Page 11	Page 13
<p>1 after the arriving of the players, did Trooper Jose</p> <p>2 Rivera stop by?</p> <p>3 A. Yes.</p> <p>4 Q. And about what time, to the best of your</p> <p>5 recollection, did he stop by?</p> <p>6 A. It would have been between 3:30 and quarter</p> <p>7 of four.</p> <p>8 Q. So, were the players stretching when he</p> <p>9 showed up?</p> <p>10 A. To the best of my recollection they were.</p> <p>11 People, the coaches were just arriving to the field.</p> <p>12 Q. And were some in the dugout?</p> <p>13 A. Coaches?</p> <p>14 Q. Individuals, be they coaches or players.</p> <p>15 A. Well, let's see, so the coaches were just</p> <p>16 arriving and I was getting ready to tell them what I</p> <p>17 wanted them to do in the first section of the</p> <p>18 practice. Typically at quarter of four I would call</p> <p>19 the players in, I would discuss with them what we</p> <p>20 were going to do. If it was the day after a game,</p> <p>21 sometimes we would review essentially what went</p> <p>22 wrong in the previous game and talk about that.</p> <p>23 Q. So, when Trooper Rivera arrived, do you</p> <p>24 recall where he went? Did he go by a dugout by</p> <p>25 chance?</p>	<p>1 is that he was trying to determine whether he would</p> <p>2 be on duty during the next practice?</p> <p>3 A. Right.</p> <p>4 Q. And were he not on duty, he would attend in</p> <p>5 a baseball uniform?</p> <p>6 A. Right.</p> <p>7 Q. Rather than a trooper uniform?</p> <p>8 A. Rather than a trooper uniform.</p> <p>9 Q. And as a coach, was Trooper Rivera a coach</p> <p>10 of some sort?</p> <p>11 A. Yes, a volunteer coach.</p> <p>12 Q. And as a coach, was he permitted or</p> <p>13 expected to be on school grounds to attend</p> <p>14 practices?</p> <p>15 A. Yes.</p> <p>16 Q. After Trooper Rivera arrived at the</p> <p>17 practice, did Mr. Martinez at some point approach</p> <p>18 the practice?</p> <p>19 A. Yes.</p> <p>20 Q. When I say Mr. Martinez, I mean Mr. Joel</p> <p>21 Martinez.</p> <p>22 A. Yes.</p> <p>23 Q. How long after Trooper Rivera arrived did</p> <p>24 Mr. Martinez arrive on the scene?</p> <p>25 A. I'm guessing -- well, let me answer this</p>

<p style="text-align: right;">Page 14</p> <p>1 way. I'm sure that I had spoken briefly with Mr. 2 Martinez. I began to speak to the team when I heard 3 a loud voice off to my left. 4 Q. Okay. 5 A. So, in terms of the timeframe, it was in I 6 would guess sort of a five minute timeframe and 7 almost immediately as I was beginning to speak to 8 the team. 9 Q. And prior to when you heard that voice, did 10 you have any awareness of Mr. Martinez's presence? 11 A. No. 12 Q. So, that was your first? 13 A. Yes. 14 Q. Will you describe for me, this is a rather 15 open-ended question, what you observed from the time 16 you heard that voice. 17 A. Yeah, I heard the voice. I caught what the 18 speaker was saying. He said relatively, he said 19 pretty loudly in what I took to be an irony, "I 20 guess it's okay to break up a man's family." And he 21 repeated that at least once. It became clear to me 22 that he was directing the conversation at 23 Mr. Rivera. 24 Q. And what did you observe unfold after that? 25 A. I was struck by Mr. Rivera's restraint. He</p>	<p style="text-align: right;">Page 16</p> <p>1 not, you know, he did not respond to that. I 2 believe at that point he said again something to the 3 effect that "I guess it's all right for you to break 4 up a man's family." 5 Then I would say pretty quickly within 6 probably 15 or 20 seconds Mr. Rivera walked through 7 the gate and escorted him away. 8 Q. Okay. 9 A. That's my recollection. 10 Q. And did you hear anyone, and by that I mean 11 either Trooper Rivera or Mr. Martinez use any 12 profane or extreme language? 13 A. No, I didn't. It was a fairly contained 14 conversation in that respect, given the way it 15 started. No, I didn't hear any profanity from 16 either man. 17 Q. So, you say it was contained considering 18 the way it started. 19 A. Yeah. 20 Q. Is it fair to say that it started with Mr. 21 Martinez yelling? 22 A. Yes. 23 Q. And that Trooper Rivera controlled the 24 situation? Was that your perception? 25 A. That was my perception and, you know, at</p>
<p style="text-align: right;">Page 15</p> <p>1 said at least twice, "You need to stop this. You 2 need to leave" or "This is inappropriate. You need 3 to leave." 4 They were, they were on either side of the 5 fence. Mr. Rivera was on the field. Mr. Martinez 6 was standing between the bleachers and the end of 7 the dugout. Within a few moments, Mr. Rivera 8 stepped through the gate in the fence and escorted 9 Mr. Martinez away. 10 Q. How long would you say the verbal exchange 11 occurred from when you first heard Mr. Martinez's 12 voice to when Mr. Rivera began to escort Mr. 13 Martinez off that area of the baseball field? 14 A. So, my best recollection would be that I 15 started to talk to the team. I heard the voice. I 16 looked up. It became clear, pretty quickly, that 17 the conversation was addressed to Mr. Rivera, that 18 it wasn't addressed to me or to a player. I don't 19 recall whether Mr. Rivera immediately responded to 20 it, but pretty quickly, as I'm trying to recollect 21 this, Mr. Martinez said something further and 22 Mr. Rivera warned him that it was inappropriate, 23 that he wasn't, that he shouldn't do this, that he 24 needed to leave. 25 Mr. Martinez was angry enough that he did</p>	<p style="text-align: right;">Page 17</p> <p>1 the time I was reassured that Trooper Rivera was 2 restrained, but clear in what he was telling Mr. 3 Martinez to do. I was relieved that Mr. Martinez's 4 conversation was directed at an individual as 5 opposed to being -- because when I first heard it, I 6 wasn't sure, and I also need to note I didn't know 7 who, I didn't know who was speaking at that point. 8 I didn't know Mr. Martinez. So, yeah. 9 Q. When you observed a man's identity that you 10 did not know -- 11 A. I did not know. 12 Q. -- walking toward the baseball field and 13 screaming, did you feel concerned for the safety of 14 yourself and the students? 15 A. Yes, to a point. I would say probably my 16 most effective response to that would be that as the 17 confrontation was unfolding, because I was looking 18 at the players, I could see two or three kids who 19 seemed alarmed by what they were hearing. They 20 actually couldn't see because the dugout is 21 enclosed, but they could hear what was going on. 22 Q. Is it fair to say that this is the kind of 23 conduct that the Lawrenceville School would prefer 24 their students not to be exposed to? 25 MR. LOUGHRY: Objection to form. You</p>

5 (Pages 14 to 17)

<p style="text-align: right;">Page 18</p> <p>1 can answer.</p> <p>2 Q. You can answer.</p> <p>3 A. Yes, obviously.</p> <p>4 Q. In your opinion, who was the initial</p> <p>5 aggressor in this situation between Mr. Martinez and</p> <p>6 Trooper Rivera?</p> <p>7 MR. LOUGHRY: Objection to form.</p> <p>8 Q. You can answer.</p> <p>9 A. Simply on the base of Mr. Martinez being</p> <p>10 the first to speak and to speak loudly, he was</p> <p>11 precipitating the event.</p> <p>12 Q. And based on what you observed, based on</p> <p>13 what you observed, did it appear that Trooper Rivera</p> <p>14 took appropriate action to diffuse the situation?</p> <p>15 A. Yes, I thought so then and I believe I said</p> <p>16 as much to Officer Vargas when he spoke with me that</p> <p>17 I was relieved that the confrontation came to an end</p> <p>18 pretty quickly.</p> <p>19 Q. And did you observe -- are you aware --</p> <p>20 strike that.</p> <p>21 Are you aware that Trooper Rivera</p> <p>22 subsequently placed Mr. Martinez under arrest?</p> <p>23 A. I'm aware that it happened. I didn't see</p> <p>24 it.</p> <p>25 Q. You did not see it?</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Yes.</p> <p>2 Q. You and I have not met each other before,</p> <p>3 have we?</p> <p>4 A. No.</p> <p>5 Q. And we haven't spoken before, have we?</p> <p>6 A. No.</p> <p>7 Q. It sounds like you have had about 95</p> <p>8 percent of your career, your work life here at the</p> <p>9 Lawrenceville School?</p> <p>10 A. That's correct.</p> <p>11 Q. I'm not very good at math. You are in the</p> <p>12 English department, maybe you are not either, but I</p> <p>13 was approximating, fair enough?</p> <p>14 A. I think that's fair.</p> <p>15 Q. You held a number of positions of</p> <p>16 responsibilities here besides teaching; is that</p> <p>17 right?</p> <p>18 A. That's true, yes.</p> <p>19 Q. So, of them have been more or less</p> <p>20 administrative type of positions?</p> <p>21 A. Yes. I would say the mid level</p> <p>22 administration.</p> <p>23 Q. So, you have been given some</p> <p>24 responsibilities --</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 19</p> <p>1 A. No. Again, I didn't know who he was. I</p> <p>2 saw what I have described and then that was as much</p> <p>3 as I observed.</p> <p>4 Q. So, is it accurate to say that once Trooper</p> <p>5 Rivera escorted Mr. Martinez away from the field,</p> <p>6 you remained on the field with the players?</p> <p>7 A. Yes. I had business to do. So I went back</p> <p>8 to my work.</p> <p>9 Q. So, you continued to conduct the practice?</p> <p>10 A. Yes.</p> <p>11 Q. Now, with respect to what you did observe,</p> <p>12 did you at any time observe Trooper Rivera attack,</p> <p>13 assault or otherwise physically do harm to Mr.</p> <p>14 Martinez?</p> <p>15 A. I didn't see that.</p> <p>16 Q. That's all I have for the moment. Justin?</p> <p>17 MR. LOUGHRY: Thank you.</p> <p>18 EXAMINATION BY MR. LOUGHRY:</p> <p>19 Q. It's Mr. Atlee, am I saying that right?</p> <p>20 A. That's correct.</p> <p>21 Q. Mr. Atlee, we introduced each other this</p> <p>22 morning to each other before the deposition, just</p> <p>23 before the deposition began; is that right?</p> <p>24 A. Uh-huh.</p> <p>25 Q. You are nodding yes?</p>	<p style="text-align: right;">Page 21</p> <p>1 Q. -- by the school beyond simply instructing</p> <p>2 a class?</p> <p>3 A. Yes.</p> <p>4 Q. Is it fair to say you feel a very strong</p> <p>5 sense of loyalty to this school?</p> <p>6 A. I think that probably can be overdone. The</p> <p>7 school gave me an opportunity to do what I care</p> <p>8 about.</p> <p>9 Q. That has to have made you feel good over</p> <p>10 the years?</p> <p>11 A. Oh, absolutely.</p> <p>12 Q. And you have a great affection for this</p> <p>13 school, fair enough?</p> <p>14 A. Yes. I would be careful about that because</p> <p>15 we're talking about a professional relationship.</p> <p>16 I'm not nostalgic about the school.</p> <p>17 Q. But you do have a sense that there is sort</p> <p>18 of a code of conduct and honor here at the school?</p> <p>19 A. Yes, I would agree.</p> <p>20 Q. There is a way that things are supposed to</p> <p>21 be done here?</p> <p>22 A. Yes.</p> <p>23 Q. Is that right?</p> <p>24 A. Yes.</p> <p>25 Q. One of the things about that code of</p>

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<p style="text-align: right;">Page 22</p> <p>1 conduct would be that staff, faculty, should be</p> <p>2 careful not to air their personal grievances or</p> <p>3 their personal conflicts in front of students, fair</p> <p>4 enough?</p> <p>5 A. I think that's fair as a general assumption</p> <p>6 probably across the profession.</p> <p>7 Q. Certainly as part of a culture here at</p> <p>8 Lawrenceville, right?</p> <p>9 A. I probably would put it a little</p> <p>10 differently. I think it's part of the culture in</p> <p>11 teaching generally.</p> <p>12 Q. That's a culture to which you have</p> <p>13 dedicated more than 40 years?</p> <p>14 A. Yes.</p> <p>15 Q. Is that right?</p> <p>16 A. That would be fair.</p> <p>17 Q. Jose Rivera, he was a baseball player in</p> <p>18 his past, wasn't he?</p> <p>19 A. He was a baseball player at the</p> <p>20 Lawrenceville School.</p> <p>21 Q. And he was a baseball player while you were</p> <p>22 the coach of the team?</p> <p>23 A. That's true.</p> <p>24 Q. So, you coached him?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 24</p> <p>1 A. I did become aware of that, yes.</p> <p>2 Q. How did you become aware of that, if you</p> <p>3 remember?</p> <p>4 A. I guess I would say this much. I think by</p> <p>5 the end of the afternoon that Mr. Eldridge, and</p> <p>6 conceivably Mr. Goldenberg, although Mike had other</p> <p>7 duties as a trainer, so I'm not sure that he was</p> <p>8 there.</p> <p>9 Q. When you say Mike, you mean Mike</p> <p>10 Goldenberg?</p> <p>11 A. Mike Goldenberg.</p> <p>12 Q. Go ahead.</p> <p>13 A. So my recollection is by the end of the</p> <p>14 afternoon I knew more about who was who. I didn't</p> <p>15 realize that Mr. Martinez was actually a faculty</p> <p>16 husband. But I believe I knew that by the end of</p> <p>17 the afternoon because I was really kind of at sea as</p> <p>18 to what I was looking at.</p> <p>19 Q. Somewhere along the line in that process of</p> <p>20 coming to some knowledge about it, you came to an</p> <p>21 understanding that he has been arrested?</p> <p>22 A. Yes. Yes, I did become aware that he had</p> <p>23 been arrested.</p> <p>24 Q. Did you ever receive any notice yourself of</p> <p>25 any pending court proceedings against Mr. Martinez?</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. And so you know Jose Rivera for, well, I'm</p> <p>2 going to say many years, but certainly back to his</p> <p>3 high school years?</p> <p>4 A. Yes.</p> <p>5 Q. He played in the outfield?</p> <p>6 A. Very good center field.</p> <p>7 Q. And now he is a -- back in 2013 he was a</p> <p>8 volunteer coach?</p> <p>9 A. Yes.</p> <p>10 Q. For the outfielders?</p> <p>11 A. Right.</p> <p>12 Q. Over the years you have developed a</p> <p>13 relationship that we can say was collegial with him?</p> <p>14 A. Yes, I think that's fair.</p> <p>15 Q. Would you consider him a friend?</p> <p>16 A. Yeah, I would consider him a friend.</p> <p>17 Q. You didn't know Mr. Martinez?</p> <p>18 A. No. As I have stated, that afternoon I</p> <p>19 actually had no idea who he was.</p> <p>20 Q. I think that you responded to Mr. Kai</p> <p>21 Marshall-Otto's question about not having seen any</p> <p>22 arrest that day; is that correct?</p> <p>23 A. That's correct. That is correct.</p> <p>24 Q. But you must have become aware after the</p> <p>25 fact that there had been an arrest, didn't you?</p>	<p style="text-align: right;">Page 25</p> <p>1 A. No.</p> <p>2 Q. So, let me just be clear about it. So you</p> <p>3 never received any subpoena or notice from a court</p> <p>4 asking you to come to court to appear as a witness;</p> <p>5 is that correct?</p> <p>6 A. Well, aside from the subpoena I received</p> <p>7 prior to this deposition.</p> <p>8 Q. Right, you received a subpoena which</p> <p>9 required your appearance to give testimony at a</p> <p>10 deposition in this particular case that Mr. Kai</p> <p>11 Marshall-Otto and I are present for today, correct?</p> <p>12 A. Correct.</p> <p>13 Q. I'm going to talk now, for example, about a</p> <p>14 municipal court proceeding. Lawrenceville Township</p> <p>15 has a municipal court, you know that?</p> <p>16 A. Yes.</p> <p>17 Q. You didn't receive any notice or subpoena</p> <p>18 to come to the Lawrenceville Municipal Court to give</p> <p>19 testimony, did you?</p> <p>20 A. No, certainly not to my -- certainly not to</p> <p>21 my recollection, and certainly if somebody had asked</p> <p>22 me to come testify in municipal court I would have</p> <p>23 responded and done it.</p> <p>24 Q. Fair to say that you are the kind of person</p> <p>25 who if you got a court notice you would take that</p>

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<p style="text-align: right;">Page 26</p> <p>1 with utmost seriousness?</p> <p>2 A. Yes, I would take it seriously.</p> <p>3 Q. You made a reference to having an interview</p> <p>4 or conference with a Trooper Vargas of the New</p> <p>5 Jersey State Police?</p> <p>6 A. Yes.</p> <p>7 Q. You attended a session where he asked you</p> <p>8 questions about this incident?</p> <p>9 A. Yes. As a matter of fact, it happened in</p> <p>10 my classroom.</p> <p>11 Q. Apart from coming to that or being involved</p> <p>12 in that event, Vargas asking you questions and you</p> <p>13 giving him answers, did anyone from, anyone else</p> <p>14 from the state police call to interview you about</p> <p>15 what you had seen and heard?</p> <p>16 A. No, not to my recollection. Somebody, and</p> <p>17 I'm trying to remember how it would have happened,</p> <p>18 somebody indicated to me that Mr. Vargas would be</p> <p>19 coming to interview me. I don't recall what the</p> <p>20 mechanics were, but I was ready to receive him.</p> <p>21 Q. I only have a few more questions.</p> <p>22 It sounded to me, and tell me if I'm</p> <p>23 correct, that after Mr. -- after Trooper Rivera went</p> <p>24 through the gate to the outside of the fence to</p> <p>25 speak with Mr. Martinez, it was a fairly short</p>	<p style="text-align: right;">Page 28</p> <p>1 point right outside that gate, and you -- let me</p> <p>2 strike that and go back.</p> <p>3 At the time that Rivera and Martinez are</p> <p>4 right outside that gate speaking --</p> <p>5 A. Yes.</p> <p>6 Q. -- briefly, you were in front of the</p> <p>7 dugout?</p> <p>8 A. Yes.</p> <p>9 Q. So, you could see them?</p> <p>10 A. Yes.</p> <p>11 Q. But the students, the baseball players were</p> <p>12 inside the dugout?</p> <p>13 A. Correct.</p> <p>14 Q. The dugout has a full back to it?</p> <p>15 A. Yes, it has a full back to it.</p> <p>16 Q. So, the students wouldn't be able to see,</p> <p>17 they can't see around the corner, so to speak?</p> <p>18 A. Exactly.</p> <p>19 Q. But whatever conversation was transpiring</p> <p>20 in the moment that Martinez and Rivera are right</p> <p>21 outside that gate you are close enough to hear it?</p> <p>22 A. No. I couldn't --</p> <p>23 Q. You didn't hear it?</p> <p>24 A. Yes, that's the answer. I didn't hear it.</p> <p>25 They were walking away.</p>
<p style="text-align: right;">Page 27</p> <p>1 moment, so to speak, before they began walking away</p> <p>2 together up towards the car?</p> <p>3 A. Yes.</p> <p>4 Q. And at that point as they walked up away</p> <p>5 from the field -- first of all, you have already</p> <p>6 told us you weren't hearing any profanity; is that</p> <p>7 correct?</p> <p>8 A. Correct.</p> <p>9 Q. But at that point were you hearing what</p> <p>10 they were saying to one another or were they simply</p> <p>11 walking up?</p> <p>12 A. No, I was not hearing what they were</p> <p>13 saying. In relative terms they were leaving fairly</p> <p>14 quietly.</p> <p>15 Q. So, what I want to ask you because we're</p> <p>16 not out there at the field, I want to talk about the</p> <p>17 spot where that gate is and then the walk up to the</p> <p>18 cars for just a moment. So if you can focus your</p> <p>19 attention on that.</p> <p>20 A. Uh-huh.</p> <p>21 Q. The gate is near the end of the third base</p> <p>22 dugout?</p> <p>23 A. Yes. The gate was just inside the third</p> <p>24 base dugout towards the backstop.</p> <p>25 Q. So, if two people were talking at that</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. If, for example, two people in that</p> <p>2 situation were yelling at each other, screaming at</p> <p>3 each other, you would be able to hear it, wouldn't</p> <p>4 you?</p> <p>5 A. Yes, I believe I would.</p> <p>6 Q. As they proceed up towards the cars, I want</p> <p>7 to talk about the distance between that gate at the</p> <p>8 end of the dugout and where the cars were parked up</p> <p>9 on the street. Are we talking about something like</p> <p>10 40 yards?</p> <p>11 A. I think that would be just about right.</p> <p>12 Q. So, as they walked up that way, again, if</p> <p>13 one or both of them were screaming at each other, or</p> <p>14 yelling in a very, very loud voice, you would still</p> <p>15 be able to hear them, wouldn't you?</p> <p>16 A. I think that would be true.</p> <p>17 Q. But you weren't hearing them because they</p> <p>18 were speaking quietly or maybe not speaking; is that</p> <p>19 correct?</p> <p>20 A. I have to mediate between the need to turn</p> <p>21 my attention to the troops, I would have to mediate</p> <p>22 between that and what was happening between the two</p> <p>23 men moving away toward the car, but I did not hear</p> <p>24 yelling.</p> <p>25 Q. If there had been screaming and yelling of</p>

8 (Pages 26 to 29)

<p style="text-align: right;">Page 30</p> <p>1 tirades and profanities, and stuff like that, it</p> <p>2 would have been of some concern to you, wouldn't it?</p> <p>3 A. Yes, simply because I wanted it banned.</p> <p>4 Q. Because if they were at the gate or on the</p> <p>5 way up the yard, so to speak, up to the road and</p> <p>6 they were screaming and yelling profanities, that's</p> <p>7 something the students could hear in the dugout,</p> <p>8 correct?</p> <p>9 A. Correct.</p> <p>10 Q. But that wasn't of concern to you because</p> <p>11 that wasn't happening at that point; am I correct?</p> <p>12 A. That is correct.</p> <p>13 Q. I take it from your testimony that you, at</p> <p>14 no point did you see either one of the men put their</p> <p>15 hands on the other fellow, right? Do I have that</p> <p>16 right?</p> <p>17 A. You know, I recall it this way. Mr. Rivera</p> <p>18 my description was escorted him away. He may have</p> <p>19 put his hand on him to demonstrate what direction he</p> <p>20 wanted him to move, but it was relatively quiet.</p> <p>21 Q. So, let me just describe for the record</p> <p>22 what you just did because we don't have a video</p> <p>23 picture of what you just did. When you say that</p> <p>24 it's possible, or he may, he may have put his hand</p> <p>25 on him, you were talking about Trooper Rivera using</p>	<p style="text-align: right;">Page 32</p> <p>1 said it probably twice.</p> <p>2 Q. And that's, in fact, what from what you</p> <p>3 could observe, that's what Mr. Martinez did, he</p> <p>4 left?</p> <p>5 A. That's true.</p> <p>6 Q. Now, I just want to play you a few seconds</p> <p>7 of a recording, and I'm going to ask you if you can</p> <p>8 confirm that this is your voice on the recording.</p> <p>9 It's just a question of authenticating something</p> <p>10 that has been sent to me, that's all.</p> <p>11 I will not start right at the beginning</p> <p>12 because my recollection is that there is a fairly</p> <p>13 lengthy disposition by the state police trooper</p> <p>14 before you get to speak. What I am interested in is</p> <p>15 hearing a voice that has been represented to me</p> <p>16 perhaps to be your voice, but I need you to confirm</p> <p>17 that.</p> <p>18 (At which time the following is an excerpt</p> <p>19 of an interview.)</p> <p>20 "...here to sort of delve into, you know</p> <p>21 what you saw and ask you some questions.</p> <p>22 Right.</p> <p>23 So, why don't we get started with that.</p> <p>24 Can you just tell me as concisely and yet sort of as</p> <p>25 comprehensively as possible what you remember</p>
<p style="text-align: right;">Page 31</p> <p>1 his right arm or his right hand stretched out from</p> <p>2 his body possibly putting it on Mr. Martinez's back</p> <p>3 or something like that? I want to describe the</p> <p>4 gesture you just made.</p> <p>5 A. I know you do. I would only note that I am</p> <p>6 offering you a gesture that may have happened, but</p> <p>7 that I, in fact -- they moved off in that direction.</p> <p>8 It is possible in my recollection that Mr. Rivera</p> <p>9 steered him. At the same time it went relatively</p> <p>10 quietly.</p> <p>11 Q. And the gesture that you are talking about,</p> <p>12 just to describe for the record, is with your right</p> <p>13 arm extended out from your body a bit and sort of</p> <p>14 moving your right arm and hand forward gently, fair</p> <p>15 enough?</p> <p>16 A. That's what I was imagining. I can't, I</p> <p>17 would not testify that that's specifically what</p> <p>18 happened because I don't remember that in detail. I</p> <p>19 do remember that they turned to go and that there</p> <p>20 really didn't seem to be much tension or much</p> <p>21 quarrel about it.</p> <p>22 Q. So, you had heard Rivera say to him you</p> <p>23 need to leave, you need to move out of here,</p> <p>24 correct?</p> <p>25 A. Yes, I think, my recollection is that he</p>	<p style="text-align: right;">Page 33</p> <p>1 happening that day?</p> <p>2 Yeah. So, you know, as we determined from</p> <p>3 looking at my academic calendar, it was a Friday."</p> <p>4 Q. Did you have a chance to listen to the few</p> <p>5 seconds of this tape recording that I just played</p> <p>6 for you on my laptop computer?</p> <p>7 A. That's me.</p> <p>8 Q. That's your voice?</p> <p>9 A. Yep.</p> <p>10 Q. I will just go a little further into the</p> <p>11 tape. That's pretty much at random just to see if</p> <p>12 it continues to be you.</p> <p>13 I'm at the 26th minute and 56 second mark.</p> <p>14 I don't know if there is anything significant there</p> <p>15 but I'm looking for a sound.</p> <p>16 "I could catch, oh, this is trouble."</p> <p>17 Q. Is that your voice?</p> <p>18 A. That would appear to be my voice.</p> <p>19 Q. I will go one more place just further down</p> <p>20 the tape.</p> <p>21 This is at the 54th minute and 11 second</p> <p>22 mark. They kept you there for awhile I gather.</p> <p>23 "It connects to my notions of human</p> <p>24 behavior."</p> <p>25 Q. Again, is that your voice?</p>

9 (Pages 30 to 33)

USDC, District of NJ
No. 3:15-cv-02932-BRM-TJB

Martinez v. Fuentes, et al.
Deposition of Benjamin C. Atlee

Thursday
April 19, 2018

Page 34

1 A. That would be my voice.
2 Q. After you gave -- do you remember giving a
3 statement to this Vargas fellow?
4 A. Oh, I remember giving a statement. What I
5 forgot was that there was a tape recorder on
6 although he had, it doesn't surprise me, and it
7 doesn't in my view contradict anything I have said
8 here, but he obviously was recording the
9 conversation. I mean at this juncture for all I
10 know he could have had the tape recorder right here
11 and I simply forgot about it or he, you know, he
12 said he had it with him and he simply indicated
13 quickly that he had it and in which case as far as I
14 was concerned the process was still the same one, he
15 was interviewing me about the event.
16 Q. And you were doing your best to be truthful
17 in your answers to him?
18 A. As I am today.
19 Q. And I take it he didn't play the tape
20 recording for you after it was finished so that you
21 could review it?
22 A. Well, obviously my memory about it isn't as
23 good as it ought to be. I don't recall that he did.
24 Q. Those are all the questions I have. Thank
25 you very much.

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CERTIFICATE OF OFFICER

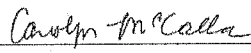
1
2
3 I, (CAROLYN J. MC CALLA), a Certified Court
4 Reporter and Notary Public, do hereby certify that
5 prior to the commencement of the examination,

BENJAMIN C. ATLEE

7 was duly sworn by me to testify to the truth, the
8 whole truth and nothing but the truth.

9 I do further certify that the foregoing is
10 a true and accurate transcript of the stenographic
11 notes of testimony taken by me at the time place and
12 on the date hereinbefore set forth.

13 I do further certify that I am neither a
14 relative nor employee, nor attorney, nor counsel to
15 any parties to this action; and that I am neither
16 related a relative nor employee of any such attorney
17 or counsel, and that I am not financially interested
18 in this action.

19
20
21  CC CRP RPR, RMR
22 CAROLYN J. MC CALLA
23 Certificate No XI-0001219
24
25

Page 35

1 EXAMINATION BY MR. MARSHALL-OTTO:
2 Q. I want to clarify one small thing. Just a
3 few minutes ago you testified about a gesture of
4 Trooper Rivera that may have happened when we were
5 talking about the hand on the back, the "may have
6 happened" language is what I want to focus on. When
7 you say this gestures may have happened, are you
8 talking about a distinct recollection you have or
9 when you use that language, are you saying it's
10 simply something that you could not rule out having
11 happened?
12 A. The second of those choices and it amounts
13 to a speculation on my part at best. I saw them
14 turn. I saw them turn to leave. I must say that, I
15 would say that neither man seemed to be, there
16 didn't seem to be any struggle about it. It didn't
17 seem to be any tension about it, but Trooper Rivera
18 was relatively close to Mr. Martinez and they moved
19 off. That's why I said to you I'm only speculating
20 about what the gestures would have been. It is not
21 a distinct recollection and I tried to make that
22 clear.
23 Q. Okay, thank you. That's all I have.
24 MR. LOUGHRY: Thank you very much.
25 (The deposition was concluded at 11:51 a.m.)

10 (Pages 34 to 36)

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